

Department of Energy

§ 1022.5

Facility means any human-made or -placed item other than a structure.

FEMA means the Federal Emergency Management Agency, Department of Homeland Security.

Finding of no significant impact means a document prepared in accordance with the requirements of 40 CFR 1508.13 and 10 CFR 1021.322.

Flood or flooding means a temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain means the lowlands adjoining inland and coastal waters and relatively flat areas and floodprone areas of offshore islands.

Floodplain action means any DOE action that takes place in a floodplain, including any DOE action in a wetland that is also within the floodplain, subject to the exclusions specified at § 1022.5(c) and (d) of this part.

Floodplain and wetland values means the qualities of or functions served by floodplains and wetlands that can include, but are not limited to, living values (e.g., conservation of existing flora and fauna including their long-term productivity, preservation of diversity and stability of species and habitats), cultural resource values (e.g., archeological and historic sites), cultivated resource values (e.g., agriculture, aquaculture, forestry), aesthetic values (e.g., natural beauty), and other values related to uses in the public interest (e.g., open space, scientific study, outdoor education, recreation).

Floodplain or wetland assessment means an evaluation consisting of a description of a proposed action, a discussion of its potential effects on the floodplain or wetland, and consideration of alternatives.

Floodplain statement of findings means a brief document issued pursuant to § 1022.14 of this part that describes the results of a floodplain assessment.

High-hazard areas means those portions of riverine and coastal floodplains nearest the source of flooding that are frequently flooded and where the likelihood of flood losses and adverse impacts on the natural and

beneficial values served by floodplains is greatest.

Minimize means to reduce to the smallest degree practicable.

New construction, for the purpose of compliance with E.O. 11990 and this part, means the building of any structures or facilities, draining, dredging, channelizing, filling, diking, impounding, and related activities.

Notice of proposed floodplain action and notice of proposed wetland action mean a brief notice that describes a proposed floodplain or wetland action, respectively, and its location and that affords the opportunity for public review.

Practicable means capable of being accomplished within existing constraints, depending on the situation and including consideration of many factors, such as the existing environment, cost, technology, and implementation time.

Preserve means to prevent modification to the natural floodplain or wetland environment or to maintain it as closely as possible to its natural state.

Restore means to reestablish a setting or environment in which the natural functions of the floodplain or wetland can again operate.

Structure means a walled or roofed building, including mobile homes and gas or liquid storage tanks.

Wetland means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas.

Wetland action means any DOE action related to new construction that takes place in a wetland not located in a floodplain, subject to the exclusions specified at § 1022.5(c) and (d) of this part.

§ 1022.5 Applicability.

(a) This part applies to all organizational units of DOE, including the National Nuclear Security Administration, except that it shall not apply to the Federal Energy Regulatory Commission.

(b) This part applies to all proposed floodplain or wetland actions, including those sponsored jointly with other agencies.

(c) This part does not apply to the issuance by DOE of permits, licenses, or allocations to private parties for activities involving a wetland that are located on non-Federal property.

(d) Subject to paragraph (e) of this section, subpart B of this part does not apply to:

(1) Routine maintenance of existing facilities and structures on DOE property in a floodplain or wetland. Maintenance is routine when it is needed to maintain and preserve the facility or structure for its designated purpose (*e.g.*, activities such as reroofing, plumbing repair, door and window replacement);

(2) Site characterization, environmental monitoring, or environmental research activities (*e.g.*, sampling and surveying water and air quality, flora and fauna abundance, and soil properties) in a floodplain or wetland, unless these activities would involve building any structure; involve draining, dredging, channelizing, filling, diking, impounding, or related activities; or result in long-term change to the ecosystem; and

(3) Minor modification (*e.g.*, upgrading lighting, heating, ventilation, and air conditioning systems; installing or improving alarm and surveillance systems; and adding environmental monitoring or control systems) of an existing facility or structure in a floodplain or wetland to improve safety or environmental conditions unless the modification would result in a significant change in the expected useful life of the facility or structure, or involve building any structure or involve draining, dredging, channelizing, filling, diking, impounding, or related activities.

(e) Although the actions listed in paragraphs (d)(1), (d)(2), and (d)(3) of this section normally have very small or no adverse impact on a floodplain or wetland, where unusual circumstances indicate the possibility of adverse impact on a floodplain or wetland, DOE shall determine the need for a floodplain or wetland assessment.

§ 1022.6 Public inquiries.

Inquiries regarding DOE's floodplain and wetland environmental review requirements may be directed to the Office of NEPA Policy and Compliance, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, 202–586–4600, or a message may be left at 1–800–472–2756, toll free.

Subpart B—Procedures for Floodplain and Wetland Reviews

§ 1022.11 Floodplain or wetland determination.

(a) Concurrent with its review of a proposed action to determine appropriate NEPA or CERCLA process requirements, DOE shall determine the applicability of the floodplain management and wetland protection requirements of this part.

(b) DOE shall determine whether a proposed action would be located within a base or critical action floodplain consistent with the most authoritative information available relative to site conditions from the following sources, as appropriate:

(1) Flood Insurance Rate Maps or Flood Hazard Boundary Maps prepared by FEMA;

(2) Information from a land-administering agency (*e.g.*, Bureau of Land Management) or from other government agencies with floodplain-determination expertise (*e.g.*, U.S. Army Corps of Engineers, Natural Resources Conservation Service);

(3) Information contained in safety basis documents as defined at 10 CFR part 830; and

(4) DOE environmental documents, *e.g.*, NEPA and CERCLA documents.

(c) DOE shall determine whether a proposed action would be located within a wetland consistent with the most authoritative information available relative to site conditions from the following sources, as appropriate:

(1) U.S. Army Corps of Engineers “Wetlands Delineation Manual,” Wetlands Research Program Technical Report Y–87–1, January 1987, or successor document;

(2) U.S. Fish and Wildlife Service National Wetlands Inventory or other